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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7 ULTIMATE TIMING, L.L.C., a Washington
8 limited liability company; and ARASH KIA,
an individual,

9 Plaintiffs,

10 v.

11 DAVID SIMMS, an individual; SA
12 INNOVATIONS, LLC d/b/a SAI TIMING &
TRACKING, a Michigan limited liability
company,

13 Defendants.
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Case No. 2:08-CV-01632-MJP

**ORDER MEMORIALIZING RULINGS
MADE DURING COURT'S
TELEPHONIC CONFERENCE WITH
COUNSEL**

15 This matter comes before the Court on Defendants' motion to exclude Plaintiffs'
16 expert testimony from trial. (Dkt. No. 85.) The Court has reviewed the motion, the response
17 (Dkt. No. 96), the reply (Dkt. No. 98), the declarations and exhibits submitted in support
18 thereof, and other pertinent documents in the record. On January 5, 2010, the Court held a
19 telephonic conference with counsel to discuss issues raised in the briefing. The Court
20 summarizes the rulings made during the telephonic conference as follows:

- 21 1. Defendants' motion to exclude is DENIED IN PART and GRANTED IN PART.

22 Though Plaintiffs conceded they failed to timely provide Defendants with copies of
23 two expert witness reports, the Court finds that exclusion is too harsh a remedy. (See
24 Dkt. No. 96 at 1.) The Court grants Defendants' request to complete the depositions
25 of Plaintiffs' experts after the production of rebuttal reports on January 18, 2010. The
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1 Court also grants Defendants' request for attorney fees under Fed. R. Civ.

2 P. 37(c)(1)(A). (Dkt. No. 85 at 6.) Defendants' counsel must submit an affidavit in
3 support of the fee award no later than January 15, 2010. Plaintiffs may file a
4 response to the affidavit no later than January 20, 2010.

5 2. The Court approves and adopts the parties' stipulation (Dkt. No. 100) regarding
6 deposition scheduling.

7 3. Plaintiffs are directed to provide a supplemental response to Defendants'
8 interrogatory on the issue of damages. Plaintiffs must specify the exact nature of the
9 damages sought and the basis for the claim. Plaintiffs must provide Defendants with
10 such a response within three (3) days of this Order.

11 4. The Court revokes Jason Wright's permission to appear in this matter pro hac vice.
12 (Dkt. Nos. 3, 5.) The Court directs the Clerk to rescind Mr. Wright's admission; he
13 shall be terminated as attorney of record for Plaintiffs.
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15 The Clerk is directed to transmit a copy of this Order to all counsel of record.

16 Dated this 6th day of January, 2010.

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18 Marsha J. Pechman
19 United States District Judge
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